

THE SOCIAL SECURITY (REGULATORY AUTHORITY) ACT, 2008

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY PROVISIONS

- | <i>Section</i> | <i>Title</i> |
|----------------|-------------------------------|
| 1. | Short title and commencement. |
| 2. | Application. |
| 3. | Interpretation. |

PART II

ESTABLISHMENT AND ADMINISTRATION

4. Establishment and common seal of the Authority.
5. Functions and duties of the Authority.
6. Powers of the Authority.
7. Establishment of the Board of Directors.
8. Appointment of the Secretary.
9. Functions of the Board.
10. Delegation by the Board.
11. Fees and allowances of the Board.
12. Appointment and functions of Director General.
13. Appointment of staff of the Authority.

PART III

REGISTRATION OF SCHEMES, MANAGERS AND CUSTODIANS

14. Registration.
15. Conditions for registration of schemes.
16. Application for registration.
17. Register.
18. Issuance of certificates.
19. Refusal of registration.
20. De-registration of schemes.
21. Effect of de-registration.
22. Appeal.

PART IV**REGULATION AND SUPERVISION OF SCHEMES,
MANAGERS AND CUSTODIANS**

23. Identification and membership numbers.
24. Scheme funds.
25. Setting of contributions rates and benefits.
26. Investment, guidelines and policies.
27. Management of funds of schemes.
28. Accounts and audits of schemes.
29. Prohibition of certain conducts.
30. Membership coverage.
31. Supplementary schemes.
32. Indexation of pensions and return on investment of provident funds.
33. Taxation.
34. Collection of contributions and collection agencies.
35. Rights to benefits.
36. Minimum benefits packages.
37. Restrictions on double benefit.
38. Collateral for home mortgage.

PART V**INSPECTION AND EXAMINATION**

39. Appointment, functions and powers of inspectors.
40. Inspection and examination.
41. Appointment of interim administrator.
42. Functions of interim administrator.

PART VI**DISPUTE SETTLEMENT**

43. Establishment of Social Security Appeals Tribunal.
44. Review of decisions.
45. Authority may review decisions of schemes.
46. Appeals against decisions of Authority.

PART VII**RELATIONSHIP BETWEEN THE BANK AND THE AUTHORITY**

47. Relationship with Bank.
48. Specific powers and responsibilities of the Bank.

PART VIII
FINANCIAL PROVISIONS

- 49. Funds of the Authority.
- 50. Financial year.
- 51. Budget.
- 52. Accounts and audit.
- 53. Annual report.

PART IX
MISCELLANEOUS PROVISIONS

- 54. Regulations.
- 55. Offences by body corporate and partnership.
- 56. Use of register in evidence.
- 57. Indemnity.
- 58. Rules.
- 59. Conflict of laws.
- 60. Transitional provisions.

SCHEDULE

THE UNITED REPUBLIC OF TANZANIA



No. 8 OF 2008

I ASSENT,

[*Jacajuma Msumbe*]
President

[06 June, 2008]

An Act to regulate the social security sector and to provide for related matters.

ENACTED by Parliament of the United Republic of Tanzania

PART I

PRELIMINARY PROVISIONS

- | | |
|---|-------------------------------------|
| <p>1. This Act may be cited as the Social Security (Regulatory Authority) Act, 2008 and shall come into operation on such date as the Minister may, by notice published in the <i>Gazette</i>, appoint.</p> | <p>Short title and commencement</p> |
| <p>2. This Act shall apply to Mainland Tanzania.</p> | <p>Application</p> |
| <p>3. In this Act unless the context otherwise requires -
 “Act” means the Social Security (Regulatory Authority) Act, 2008;
 “actuarial valuation” means valuation of the assets and liabilities of a scheme of fund made by actuary who is an expert in the science of calculations of insurance risks and rates of premiums and contributions;
 “administration expense” means all costs incidental or in relation to registration of members, collection of members’ contributions and disbursement of members’ benefits;</p> | <p>Interpretation</p> |

- “Authority” means the Social Security Regulatory Authority established by Section 4;
- “Bank” means the Bank of Tanzania established under the Bank of Tanzania Act;
- “Board” means the Board of Directors of the Authority established under Section 7;
- “custodian” means a company registered under the law of Tanzania whose business includes taking responsibility for the safe custody of the funds, securities, financial instruments, and documents of title of the assets of a scheme;
- “Director General” means the Director General of the Authority appointed under Section 12;
- “employee” has the meaning ascribed to it under the Labour Relations and Employment Act;
- “employer” has the meaning ascribed to it under the Labour Relations and Employment Act;
- “formal sector” means the sector which includes employers and employees who have entered into a contract of employment or apprenticeship or any other contract contemplated in the definition of “employee”;
- “informal sector” means the sector which includes workers who work informally and who do not work in terms of an employment contract or any other contract contemplated in the definition of “employee”;
- “inspector” means an officer appointed by the Authority or Bank to inspect matters of social security in relation to a scheme manager or custodian;
- “interim administrator” means a person appointed under section 39 to assume the management, control and conduct of affairs and business of trustee, manager or as the case may be custodian;
- “manager” means a company whose business includes—
- (a) undertaking, pursuant to a contract or other arrangements, the management of the funds and other assets of a scheme for purposes of investment;
 - (b) providing consultancy services of the investment of scheme;
or
 - (c) reporting or disseminating information concerning the assets available for investment of scheme;
- “mandatory scheme” means a compulsory scheme established by law and guaranteed by the Government to provide social security benefits to employees;

- “member” means an employee or worker registered by a scheme and includes a person entitled to or receiving a benefit under a scheme;
- “Minister” means the Minister responsible for matters related to social security;
- “occupational scheme” means a scheme offered through an individual’s employment to private or public sector employees;
- “private scheme” means a scheme established by private (in contrast to a mandatory scheme established by law) agencies, including commercial, industrial, labour and service organizations, non profit organizations and non profit religious, educational and charitable organizations;
- “scheme” in relation to social security matters, means a social security scheme;
- “self employed” means a person who does not work in terms of contract of employment or apprenticeship or any other contract contemplated in the definition of the term “employee”;
- “social security scheme” means any public or private programme established for the purpose of providing economical security and form of benefit in kind which include health care needs, basic housing needs, clothing and in the form of cash benefit paid to a member or dependants of the member at the time of need;
- “staff” means any person under contract of employment with the Authority;
- “supplementary scheme” means a voluntary scheme chosen by the member to compliment benefits of any mandatory scheme;
- “Tribunal” means the Social Security Disputes Settlement Tribunal established under Section 43 of this Act;
- “Trustee” means a trustee of a scheme and includes the Chairperson.

PART II

ESTABLISHMENT AND ADMINISTRATION

4.-(1) There is established an authority to be known as the Social Security Regulatory Authority.

(2) The Authority shall be a body corporate with perpetual succession and a common seal and shall in its corporate name, be capable of-

- (a) suing and being sued;
- (b) purchasing or otherwise acquiring, holding, charging or disposing of its movable and immovable property;
- (c) borrowing and lending;
- (d) entering into contracts; and
- (e) performing all such other things or acts for the proper execution of its functions which may lawfully be performed by a body corporate.

Establishment, and common seal of the Authority

(3) The common seal of the Authority shall be kept in such custody as the Board may direct and shall not be used except by the order of the Board.

Functions
and duties
of the
Authority

5. — (1) Subject to the provisions of this Act, the functions and duties of the Authority shall be to—

- (a) register all managers, custodians and schemes;
- (b) regulate and supervise the performance of all managers, custodians and social security schemes;
- (c) issue guidelines for the efficient and effective operation of the social security sector;
- (d) protect and safeguard the interests of members;
- (e) create a conducive environment for the promotion and development of the social security sector;
- (f) advise the Minister on all policy and operational matters relating to social security sector;
- (g) adopt and promulgate broad guidelines applicable to all managers, custodians and social security schemes;
- (h) monitor and review regularly the performance of the social security sector;
- (i) initiate studies, recommend, coordinate and implement reforms in the social security sector;
- (j) appoint interim administrator of schemes, where necessary;
- (k) to facilitate extension of social security coverage to non covered areas including informal groups; and
- (l) to conduct programmes for public awareness, sensitization and tracing on social security.

(2) In performing the functions and duties under subsection (1), the Authority shall, where necessary, collaborate, liaise and consult with relevant authorities and stakeholders in the social security sector.

Powers
of the
Authority

6.—(1) Subject to the provisions of this Act, the Authority shall have and exercise powers to perform supervisory and regulatory functions over all managers, custodians and schemes.

(2) Without prejudice to subsection (1), the Authority shall have the power to—

- (a) where it deems fit, cause actuarial valuations to be carried out with respect to any of the schemes;
- (b) take disciplinary measures including penalties and sanctions against managers, custodians and trustees of schemes for

non-compliance with the provisions of this Act or the respective enabling Acts or instruments, or for loss of monies or properties of the social security schemes;

- (c) conduct inspection and examination with or without prior notice on managers, custodians or schemes, premises, equipment, machinery, records, books of accounts or any other document and transaction of the managers, custodian or a scheme;
- (d) delegate to any person any of its powers other than the powers of delegation, revocation or variation of such delegation; and
- (e) do such other things to ensure efficiency in the management of social security sector.

7.-(1) There is established the Board of Directors of the Authority which shall be composed of-

- (a) the Chairman who shall be appointed by the President;
- (b) the Treasury Registrar;
- (c) the Labour Commissioner;
- (d) two representatives from the Tanzania Employers' Association;
- (e) two representatives from the Trade Unions Congress of Tanzania;
- (f) one member from amongst persons who possess knowledge and experience in social security matters;
- (g) the Director General who shall be an ex-officio member.

Establishment of the Board of Directors

(2) The tenure, termination of members and proceedings of the Board and such other matters in relation to the Board shall be as set out in the Schedule to this Act.

8.-(1) The Board shall appoint a lawyer of not less than five years experience to be a legal officer of the Authority and Secretary to the Board.

Appointment of the Secretary

(2) The Secretary to the Board may take part in proceedings of the Board but shall not vote.

9. The Board shall perform its functions under this Act and in particular, the Board shall -

Functions of the Board

- (a) control, supervise and administer assets of the Authority in such manner and for such purposes as to promote the objectives for which the Authority is established;

- (b) determine the provisions to be made for capital and recurrent expenditure and for reserves of the Authority;
- (c) receive any grants, gifts, donations or endowments on behalf of the Authority and make legitimate disbursement thereof;
- (d) enter into association with other bodies or organisations within or outside Tanzania as the Board may deem fit for the furtherance of the objects for which the Authority is established;
- (e) form committees to perform functions as may be directed by the Board;
- (f) be responsible for the management and control of the Authority in accordance with the provisions of this Act;
- (g) advise the Minister on matters relating to the development or reform in the social security sector; and
- (h) approve all measures and actions which the Authority intends or proposes to take against a scheme, manager or custodian, as the case may be.

Delegation
by the
Board

10. The Board may, by resolution either generally or in any particular case, delegate the exercise of its powers to any of its committee, director, any employee or agent of the Authority.

Fees and
allowances
of the
Board

11. The members of the Board shall be entitled to such fees and allowances for expenses or any other costs incidental to their responsibilities as the Minister may, upon the recommendation of the Board, determine.

Appoint-
ment and
functions
of
Director
General

12.—(1) There shall be the Director General of the Authority who shall be appointed by the President.

(2) The Director General shall be-

- (a) the Chief Executive Officer and shall exercise supervisory powers over the management of officers and staff of the Authority; and

(b) responsible for the day to day management of the affairs of the Authority and directives of the Board.

13.—(1) The Board may appoint such staff for the proper discharge of the functions of the Authority under this Act or any other written law upon such terms and conditions of service as the Board may determine.

Appointment of staff of the Authority

(2) The Authority shall, by internal rules, establish a competitive procedure for appointment of staff of the Authority.

PART III

REGISTRATION OF SCHEMES, MANAGERS AND CUSTODIANS

14. A person intending to establish or continue to operate a scheme or act as a manager or custodian shall not operate or act as such unless such person is registered under this Act.

Registration

15.—(1) A scheme shall not be registered under this Act unless-

Conditions for registration of schemes

(a) the scheme-

(i) is established under a written law or an irrevocable trust deed;

(ii) presents an initial actuarial valuation report; and

(iii) protects, the rights and interests of its members and public; and

(b) the trustees thereof satisfy the requirements specified in the Regulations.

(2) Any trust deed establishing a scheme shall be approved by the Authority.

Applica-
tion for
registration

16.-(1) A person intending to establish a scheme, act as a manager or custodian shall submit an application to the Authority in a prescribed form.

(2) The application under sub-section (1), shall be accompanied by a prescribed fee.

(3) The Authority after receiving the application under sub-section (1), shall process the same in the manner prescribed in the regulations.

Register

17.-(1) The Authority shall keep a register for all schemes, managers and custodians registered under this Act in such form as the Board may determine and shall enter therein such particulars as the Board may specify.

(2) The Board may determine the time or times during which and the extent to which a person may, on payment of the prescribed fee, inspect the register kept under this section or obtain copies thereof.

Issuance
of certifi-
cates

18. The Authority may, subject to the provisions of this Act register and issue the applicant with a certificate of registration.

Refusal
of
registra-
tion

19.-(1) The Authority may refuse to register any scheme or any person proposing to act as a manager or custodian if it is satisfied that the application for registration does not meet the requirements provided for under this Act.

(2) Where the Authority refuses to register any scheme, manager or custodian, it shall notify the applicant specifying the reasons for the refusal.

De-regis-
tration of
schemes

20.-(1) The Authority may de-register a scheme, manager or custodian if-

(a) the operation of such scheme, manager or custodian is being conducted in an unlawful or imprudent manner or contrary to public interest;

- (b) continuation of activities of such scheme, manager or custodian is detrimental to the interests of its members;
- (c) such scheme, manager or custodian is wound up or is otherwise dissolved;
- (d) it discovers after registration that a false statement was made in connection with the application while the applicant knew to be false or untrue in any material particular; or
- (e) such scheme, manager or custodian does not conform to the provisions of this Act or directions or any conditions of the certificate of registration.

(2) Notwithstanding subsection (1), the Authority may de-register a manager or custodian where an event occurs which renders such manager or custodian ineligible to manage or provide custodial services.

(3) The Authority shall, before de-registering a scheme, manager or custodian give at least thirty days' notice of its intention requiring such scheme, manager or custodian to show cause why the respective scheme, manager or custodian should not be de-registered.

(4) The Authority shall consider any representation made to it by a scheme, manager or custodian in compliance with subsection (3), before de-registering such scheme, manager or custodian.

(5) The notice under subsection (3), shall be in the prescribed form and shall specify reasons for the intended deregistration.

21.—(1) The de-registration of a scheme, manager or custodian shall not in any way prejudice the rights of members under the scheme.

Effect of
de-regis-
tration

(2) Where the Authority de-registers a scheme and the assets of such scheme are insufficient to fully discharge obligations to its members, the Authority may, subject to the approval of the Board, take over the distribution or transfer of the assets and the supervision of the scheme in order to protect the interests of members.

- Appeal 22. Notwithstanding the provisions of section 46 a person aggrieved by the decision of the Authority may within 21 days from the date of the decision of the Authority appeal to the Board.

PART IV

REGULATION AND SUPERVISION OF SCHEMES, MANAGERS AND CUSTODIANS

- Identifica-
tion and
member-
ship
numbers 23. Every scheme registered under this Act shall issue an identification number to every employer and a membership number to every employee who is a member of the scheme upon his registration.

- Scheme
funds 24.-(1) There shall be, in respect of every scheme a fund.

- (2) The sources of funds for a scheme shall include-
- (a) contributions from workers employers, and employees;
 - (b) incomes derived from investments;
 - (c) any penalties paid under respective Acts or Trust Deeds;
 - (d) any grant or subsidy from the Government;
 - (e) donations and bequests; and
 - (f) any other incomes legally acquired.

- (3) The funds of the scheme shall at all times be maintained separately from other funds under the control of the trustees, managers or the custodians held by them in their other capacities.

- (4) Subject to the provisions of this Act, the Minister may, in consultation with the Authority and the Bank, make regulations with regard to the funding, investment, vesting of benefits, custody, management, application and transfer of scheme funds and accounting for such funds.

- (5) Every scheme shall maintain a reserve account into which accumulated revenues not needed to meet the costs of the current financial year shall be deposited for purposes of investment.

25.-(1) Notwithstanding any other written law, the Authority may, by rules set contribution rates payable to the schemes by the members and minimum benefits enjoyed by beneficiaries.

Setting of contributions rates and benefits

(2) Before setting contribution rates and minimum benefits the Authority shall undertake or cause the scheme to undertake actuarial valuation.

(3) Contribution rates may be reviewed by the Authority and be adjusted in line with an actuarial valuation of a scheme.

(4) The Authority may, in consultation with the schemes, set contribution rates and minimum benefits for groups of informal sector workers and employees.

26.-(1) The schemes, managers and custodians may use funds of the scheme for investment in accordance with the provisions of this Act.

Investment, guidelines and policies

(2) The Bank shall, in consultation with the Authority, issue investment guidelines regarding scheme funds.

(3) Every scheme, manager or custodian shall formulate and implement its investment policy in accordance with the investment guidelines issued by the Bank.

(4) Subject to the provisions of this Act and guidelines issued by the Bank, a scheme, manager or custodian shall invest moneys in any viable venture and financial instruments as they may consider appropriate.

(5) Every scheme, manager and custodian shall submit to the Authority, report of all investments of the scheme funds, in such form, manner and at such intervals as may be prescribed by the Bank.

(6) Subject to subsection (5), the Authority after receipt of the report shall within fourteen days submit that report to the Bank.

27.-(1) Every trustee, manager or custodian shall-

- (a) ensure that funds of the scheme are at all times managed in accordance with this Act, the relevant laws or enabling instrument;

Management of funds of schemes

- (b) ensure that its management is carried out in the best interest of members of the scheme and in that regard shall give greater priority to the improvement of benefits payable to members;
- (c) report to the Authority forthwith any unusual occurrence which in his view could jeopardise rights of members of the scheme;
- (d) report to the Authority forthwith if any contributions into a funds of the scheme remain due for a period of more than thirty days; and
- (e) ensure prompt payment of benefits to eligible members or beneficiaries.

(2) Every scheme shall keep and maintain one or more accounts with such bank or banks as the board of trustees of the scheme shall approve subject to guidelines issued by the Authority into which all moneys payable to the scheme and income derived from investments of the funds shall be deposited.

(3) The account or accounts under subsection (2) shall be held by the board in trust for the members of the scheme and administered by the board in accordance with the provisions of this Act.

(4) The respective boards may authorise payment out of the account or accounts of the scheme for any purpose for which payments are authorised by guidelines issued under this Act, trust deed or other written law.

(5) The use, disbursement, administration and management of funds shall be governed by resolution of the respective boards, subject to guidelines issued under this Act and to the following limitations, namely-

- (a) that all funds under the management and control of schemes shall be subject to rules and regulations applicable to public funds; and
- (b) that the administration expenses, shall not exceed ratios or percentages as may be determined by the Authority.

28.-(1) Every scheme shall keep proper records of books of accounts, financial statements, assets and liabilities of the scheme.

Accounts
and
audits of
schemes

(2) Every scheme shall within a period of three months after the end of each financial year, prepare-

- (a) a balance sheet;
- (b) a statement of income and expenditure;
- (c) a statement of the assets and liabilities of the scheme as on the last day of that year; and
- (d) any other statement as the Authority may require.

(3) The accounts of the scheme in respect of each financial year shall be audited by the Controller and Auditor General or as the case may be a person registered under the Accountants and Auditors (Registration) Act.

Cap.286

(4) Every scheme shall, within three months after the end of each financial year, submit a copy of its audited accounts to the Authority and the Bank.

(5) Every scheme shall publish its annual audited accounts in such manner as the Minister may, in consultation with the Authority, prescribe.

(6) Where a scheme has failed to submit a copy of its audited accounts to the Authority and to the Bank pursuant to subsection (4), the Authority shall require the Chairman of the board of trustees and the chief executive officer of the scheme to show cause why the Authority should not recommend their disqualification.

(7) Where the chairman of the board of trustees or the chief executive officer of the scheme fails to show cause within fourteen days of receipt of the requirement under subsection (6), the Authority shall recommend disqualification of that chairman or chief executive officer to the respective appointing authority.

(8) Where, in the opinion of the Authority, the representation by the chairman of the board of trustees or chief executive officer of the scheme is unsatisfactory, the Authority shall recommend disqualification of that chairman or chief executive officer.

Prohibition of certain conducts

29.-(1) Where, in the opinion of the Authority, a trustee, manager or custodian is pursuing an act or course of conduct which is unsafe or unsound or in any way detrimental to the scheme or other schemes, the Authority shall, by notice in writing, direct the trustee, manager or custodian to refrain from committing such acts or pursuing that course of conduct.

(2) A Trustee, manager, or custodian who acts in contravention of a direction issued under subsection (1), commits an offence and shall be liable, on conviction, to a fine not exceeding ten million shillings, or to imprisonment for a term not exceeding two years, or to both.

(3) For purposes of this section unsafe and unsound conducts shall include-

- (a) registration of an employee and issuing him with a membership number while knowing that such an employee is registered with another scheme;
- (b) misrepresentation of facts with intention to win confidence of the stakeholders, contributing employers or employees;
- (c) knowingly making producing, furnishing or causing to be produced or furnished any document or information which he knows to be false in any material particular;
- (d) obtaining of consent of employees or employers by duress or undue influence; and
- (e) commission of other acts which, in the opinion of the authority, may constitute unsafe or unsound practices in the industry.

Membership coverage

30. Every employer in the formal sector shall be required to register his employees with any of the mandatory schemes, provided that it shall be the right of the employee to choose a mandatory scheme under which the employee shall be registered.

Supplementary schemes

31. Any person may, subject to the terms and conditions prescribed in the Regulations, establish a supplementary scheme whose membership shall be voluntary.

Indexation of pensions and return on investment of provident funds

32. Subject to the provisions of this Act and guidelines issued by the Authority and the Bank in relation-

- (a) to pension benefits, the Authority may, where necessary set rates of indexation of members' benefits to the current levels of earnings of contributors;

(b) to defined contribution schemes and Provident Funds, the boards of respective schemes shall annually set interest rate to be allowed on members' accounts with the scheme at the beginning of each financial year.

33. The Authority shall, in consultation with the Minister responsible for finance, determine matters relating to taxation on schemes. Taxation

34.-(1) All contributions shall be collected and remitted in accordance with the laws and trust deeds establishing the respective schemes. Collection of contributions and collection agencies

(2) Notwithstanding subsection (1), the Authority may make rules providing for-

(a) the qualifications for the collection agencies; and

(b) the manner in which contributions may be collected or remitted.

35. Notwithstanding the provisions of the laws, trust deeds establishing the respective schemes, a member of a scheme is entitled to be paid benefits by the scheme provided the member meets the qualifying conditions. Rights to benefits

36. -(1) Subject to the provisions of this Act, a member of any of the mandatory schemes shall be entitled to short and long term benefits to be determined and reviewed by the Authority in consultation with the respective schemes. Minimum benefits packages

(2) The provisions of subsection (1) shall not apply to the National Health Insurance Fund established under the National Health Insurance Fund Act and in relation to the technical matters on the provision of health service, the National Health Insurance Fund shall be responsible to the Minister responsible for health matters. Cap 395

37.-(1) A member or dependant shall not be entitled to receive more than one benefit paid out in respect of the same contingency, Restrictions on double benefit

(2) Subsection (1), shall not apply to a member of both mandatory and supplementary schemes.

(3) Subject to the provisions of subsection (1), a member or dependant who qualifies for more than one benefit, in respect of the same contingency, shall be entitled to be paid the benefit which is the highest.

Collateral
for home
mortgage

38.-(1) The Minister may, in consultation with the Authority, make regulations for using benefit entitlements as collateral for home mortgage purposes for a member who has not attained the age of retirement.

(2) The collateral for home mortgage granted to a member under subsection (1) shall not exceed fifty percent of the total benefit entitlement at the time of award.

(3) The provisions of subsections (1) and (2) shall apply to the Fund offering long term benefits.

PART V

INSPECTORS, INSPECTION AND EXAMINATION

Appoint-
ment,
functions
and
powers
of
inspectors

39.-(1) There shall be inspectors of the Authority to be appointed by the Director General.

(2) An inspector shall inspect or examine the actuarial valuation reports, books of accounts, records or any document at the premises where they are produced.

(3) An inspector may require the scheme in respect of which inspection or examination is carried out to make copies of any actuarial valuation report, books of accounts, records or any other documents and shall have the powers to inspect or examine them.

(4) The Authority or the Bank shall, before the inspection or examination, provide information to each other on the intended inspection or examination.

(5) In complying with inspection or examination requirements under this section, a chief executive officer of the scheme, a manager, a custodian, an officer, trustee or employee shall make available to the inspector all the books of accounts, records, current actuarial valuation reports or any other documents of the scheme.

(6) Any information obtained in the course of the inspection or examination shall be confidential and used solely for the purpose of this Act.

(7) The Authority or the Bank shall, upon conclusion of the inspection or examination, furnish and forward a copy of the inspection or examination to each other.

(8) The Authority or the Bank shall, upon conclusion of any inspection or examination under this section, furnish and forward a copy of the inspection or examination to the chairman of the board of trustees of the scheme, manager or custodian inspected or examined.

(9) The Authority shall, after furnishing the chairman of the board of trustees of the scheme, manager or custodian with the copy of the inspection or examination report, require that chairman, manager or custodian to provide within twenty one days satisfactory explanation regarding actions to be taken on issues raised in the report.

(10) After receipt of an explanation under subsection 11, the Authority may, by notice in the prescribed form, require the trustees, manager or custodian of a scheme inspected under this part to comply, within the period of fourteen days, with such directions as the Authority considers necessary in connection with any matter arising out of the report made under this section.

(11) A person commits an offence if he-

- (a) refuses or fails to comply with a requirement of an inspector;
- (b) obstructs or hinders the inspector in the exercise of his powers under this Act.
- (c) furnishes information or makes a false statement which he knows to be false or misleading.

(12) A person convicted of an offence under subsection (13), shall be liable on conviction to a fine not exceeding five million shillings or to imprisonment for a term not exceeding three years, or to both.

(13) For the purposes of the Part and Part VII the term "financial matters" shall include control of fund reserve, monitoring investments and investment decisions.

40.-(1) The Authority may twice a year inspect or cause an inspection or an examination of any manager custodian or scheme to be conducted.

Inspection
and
examina-
tion

Provided that, when necessary, the Authority may conduct an emergency inspection at any time.

(2) The Bank may direct the Authority to examine inspect or cause an inspection or an examination on financial matters to managers custodians or schemes to be onducted.

(3) Where exigencies of the matter requires the Bank and the Authority to conduct an inspection or examination may conduct joint inspection and examination of finance matters of any manager, custody or scheme.

Appoint-
ment of
interim
adminis-
trator

41.-(1) Where a trustee, manager or custodian is found to have failed to discharge his duties in a diligent manner the Authority may, with the approval of the Board appoint any person as an interim administrator to assume the management, control and conduct of the affairs and business of the trustees, the manager or the custodian.

(2) The appointment of interim administrators shall be exercised in the following circumstances where-

- (a) a mandatory scheme is proved to be actuarially unsound;
- (b) the trustee of a scheme, managers or custodians fails to submit to the Authority the annual accounts required under section 28 for over six months after the end of the financial year to which they relate;
- (c) the trustees, managers or custodians are found to have submitted or provided any actuarial reports, books of accounts, returns, financial statements, records, documents or other information relating to the scheme which are false or misleading; or
- (d) the Authority, whether on inspection or otherwise, becomes aware of any fact or circumstance which, in its opinion, warrants the exercise of the relevant power in the interests of members of the scheme.

(3) An interim administrator appointed under subsection (1) shall, upon assuming the management, control and conduct of affairs and business of the trustee, manager or custodian, discharge his duties with diligence and in accordance with sound actuarial and financial principles and in particular with due regard to the interest of members of the scheme.

(4) The appointment of an interim administrator under this section shall be for a period of twelve months as the Authority may specify in the instrument of appointment but may be extended by the Authority.

Functions
of interim
admini-
strator

42.-(1) The functions of the interim administrator shall be to-

- (a) trace, preserve and secure all the assets and property of the scheme;
- (b) recover all debts and other sums of money due to and owing to the scheme;
- (c) evaluate capital adequacy and reserves in order to determine the solvency and liquidity of the scheme;

- (d) assess the scheme's, manager's or custodian's compliance with the provisions of this Act;
- (e) evaluate the staff for purposes of restructuring or reorganisation if considered necessary;
- (f) obtain from any former trustee, manager or custodian of the scheme or any officer, employee or agent, any documents, records, books of accounts, statements, correspondence or any other information relating to the scheme; and
- (g) suspend operations of social security services including receipt of contributions and payments.

(2) Where the interim administrator suspends operations of any social security services under subsection (1) (g), the interim administrator in consultation with the Authority shall set conditions for receipt of contributions and payment of benefits.

(3) The interim administrator shall, within a period of three months from the date of his appointment, prepare and submit to the Authority and the Bank, a report on the financial position and the management of the scheme with recommendations as to whether the scheme-

- (a) be re-structured or re-organized;
- (b) is capable of being revived; or
- (c) be de-registered.

(4) The Authority shall, after taking into account the report of the interim administrator and recommendations of the Bank make appropriate decision on the matter.

PART VI

DISPUTES SETTLEMENT

43.-(1) There is established a Social Security Tribunal which shall have jurisdiction to determine appeals against any decision of the Authority.

Establishment of the Social Security Appeals Tribunal

(2) The Tribunal shall consist of-

- (a) a Chairman who shall be a Judge of the High Court of Tanzania or a person who is qualified to be appointed a judge of the high court;
- (b) two members with experience in social security matters; and

(c) one member with experience in occupational safety and health.

(3) The Chairman and members of the Tribunal shall be appointed by the Minister after consultation with the Chief Justice.

(4) Members of Tribunal shall hold office on part time basis and they shall meet when there is business to transact.

(5) The Minister may make regulations prescribing the powers, procedures and fees payable to the Tribunal and allowances payable to the members of Tribunal.

Review
of
decisions

44.-(1) Any member or beneficiary who is aggrieved by a decision of a scheme under laws or trust deed establishing the respective scheme may within thirty days of receipt of the decision apply in writing to the Authority for review of the decision.

(2) The Authority shall, within thirty days of receipt of a written application made under subsection (1), review the decision and communicate in writing to the person with reasons for the decision.

(3) A dispute between-

(a) a member or beneficiary and scheme shall be referred to the Authority;

(b) a scheme and a scheme shall be referred to the Authority;

(c) a member and a manager, shall be referred to the Authority; and

(d) a scheme and the Authority shall be referred to the Tribunal.

Authority
may
review
decisions
of
schemes

45.-(1) The Authority may, after notice to the party concerned and after giving the party an opportunity to submit representations, review any decision by a scheme in connection with any matter provided for in this Act.

(2) The Authority may, after considering the evidence and representations submitted and making such inquiry as it may deem necessary, confirm, amend or set aside its decision, and may suspend, discontinue, reduce or increase compensation awarded.

Appeals
against
decisions
of
Authority

46.-(1) Any person aggrieved by a decision of the Authority may, within thirty days after the decision, appeal in the prescribed manner against such decision to the Tribunal.

(2) A Tribunal may in connection with proceedings under this section, make such order in relation to costs and payment as it may deem equitable.

PART VII

RELATIONSHIP BETWEEN THE BANK AND THE AUTHORITY

47.-(1) The relationship between the Authority and the Bank shall be as provided by this Act.

Relation-
ship with
Bank

(2) Without prejudice to the provisions of this Act and notwithstanding the provisions of other written laws, powers relating to regulation and supervision of financial matters shall be vested in the Bank.

48. For avoidance of doubt, the Bank shall have the powers to-

- (a) issue investment guidelines;
- (b) monitor and ensure compliance to the investment guidelines by the schemes, managers and custodians; or
- (c) inspect and examine schemes, managers and custodians on all financial matters.

Specific
powers
and
responsi-
bilities of
the Bank

PART VIII

FINANCIAL PROVISIONS

49. The funds of the Authority shall consist of-

- (a) moneys appropriated by Parliament for the purposes of the Authority;
- (b) registration fees received from managers, custodians and schemes as prescribed by the regulations;
- (c) grants received by the Authority; and
- (d) any other moneys legally acquired and received by the Authority for the execution of its functions.

Funds of
the
Authority

(2) The funds of the Authority shall be used for payment of-

- (a) salaries and allowances of staff members of the Authority;
- (b) fees and allowances as prescribed under section 11 of this Act; and

(c) any other expenses incurred by the Authority in the execution of its functions.

Financial year **50.** The financial year of the Authority shall be the period of one year ending on the 30th June.

Budget **51.**-(1) The Authority shall, before the end of each financial year, prepare a budget for the following financial year showing estimates of its receipts and expenditure for the following year.

(2) The Authority shall, subject to sub-section (1), submit to the Minister the annual budget and every supplementary budget for approval.

Accounts and audit **52.**-(1) The accounts of the Authority shall, at the end of each financial year, be audited by the Controller and Auditor General.

(2) The Authority shall cause to be kept all proper books and audit records of accounts of the income, expenditure and assets of the Authority.

(3) Within a period of three months after the end of each financial year, the Board shall submit to the Controller and Auditor General the accounts of the Authority together with -

- (a) a statement of income and expenditure during the year; and
- (b) a statement of the assets and liabilities of the Authority on the last day of that year.

Annual report **53.**-(1) The Authority shall on or before the 30th September of each year, prepare an annual report in respect of that financial year up to immediately preceding 30th June, and submit the report to the Minister who shall lay it before the National Assembly.

(2) The annual report shall consist of-

- (a) detailed information regarding the activities of the Authority during the year to which it relates;
- (b) a copy of the audited accounts; and
- (c) any other information as the Authority may be required to provide by this Act.

PART IX

MISCELLANEOUS PROVISIONS

54.-(1) The Minister may make regulations providing for all matters which under the provisions of this Act are required or permitted for better carrying out or giving effect to the provisions of this Act. Regulations

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations-

- (a) prescribing conditions and procedures for portability of benefits' rights of a member from one scheme to another;
- (b) prescribing the liability for payment of benefits by schemes and other conditions and procedures relating to the transfer of membership and contributions;
- (c) prescribing minimum standards and procedures for registration of schemes, managers and custodians;
- (d) providing for appointment, tenure and remuneration of member of the Board;
- (e) prescribing the Conduct of affairs of the Board of Directors;
- (f) providing for removal and disqualification of managers and custodians of schemes;
- (g) prescribing procedures for resolution of disputes;
- (h) prescribing for portability of benefit rights and international reciprocal agreements for transfer of benefits;
- (i) prescribing the manner in which contributions and remittances shall be made;
- (j) prescribing the minimum benefit packages;
- (k) for the extension or establishment of social security coverage to the informal sector employees;
- (l) prescribing criteria for indexation, modalities and interest rates applied to member's benefits as prescribed under section 25.

55.-(1) Where an offence is committed by a body corporate, that body corporate and every director or officer who had knowledge or ought to have knowledge of the commission of the offence and who did not exercise due diligence to ensure compliance with this Act commits an offence. Offences by body corporate and partnership

(2) Any body corporate committed offence under subsection (1), shall be liable on conviction in a fine of not less than twenty million shillings.

- Use of register in evidence** **56.**-(1) For the purposes of ascertaining the facts concerning the registration of a scheme, manager or custodian entries in the register shall be *prima facie* evidence as to the facts specified in the register.
- (2) A document certified by the Director General as a true copy or extract from the register shall be admissible in court.
- Indemnity** **57.** No action or proceedings shall lie or be instituted personally against any member of the Board or officer or staff of the Authority or an interim administrator appointed by the Authority for or in respect of any act or thing done in good faith in the performance of the functions or the exercise of powers conferred under this Act.
- Rules** **58.**-(1) Subject to section 52, the Authority may make internal rules in respect of its functions and operations within the framework of the provisions of this Act.
- (2) Rules made under this section shall be published in the *Gazette*.
- Conflict of laws** **59.** Where there is a conflict between the provisions of this Act and the provisions of any other written law with regard to the functions or powers of the Authority, the provisions of this Act shall prevail.
- Transitional provisions** **60.** All schemes shall within twelve months from the commencement of this Act re-align their functions, duties and responsibilities in conformity with the requirements of this Act.

SCHEDULE

(Made under section 7(2))

Conduct of business and affairs of the Board

- Tenure of office** **1.** A member of the Board shall hold office for a period not exceeding three years on such terms and conditions as may be specified in the instrument of appointment and may be eligible for re-appointment for one more term.
- Vacation of office** **2.** A member other than the Director General and persons who are member by virtual of their position may-
- (a) at any time resign from office by notice in writing to the Minister,
 (b) be removed from office by the Minister if the member-
- (i) has been absent from three consecutive meetings of the Board without permission from the chairman;

- (ii) is adjudged bankrupt or enters into a composition scheme or arrangement with his creditors;
- (iii) is convicted of an offence involving dishonesty, fraud or moral turpitude;
- (iv) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings;
- (v) is incapacitated by prolonged physical or mental illness; or
- (vi) is otherwise unable to discharge his functions.

3-(1) The Board shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

Meetings

(2) The quorum for the conduct of the business of the Board shall be half of the total number of members.

(3) The Chairman shall preside at every meeting of the Board, and in his absence, members present shall elect one among them to be the Chairman.

(4) Unless a unanimous decision is reached a decision on any matter before the Board shall be by a majority of votes of the members present and in the case of an equality of votes, the chairman or the person presiding shall have a casting vote.

(5) Subject to paragraph (3), no proceedings of the Board shall be invalid by reason only of a vacancy among the members of the Board.

(6) Subject to subparagraph (2), the Board may determine its own procedure and the procedure for any committee of the Board and for the attendance of any other person at its meetings.

4-(1) Where a member is directly or indirectly interested in any contract, proposed contract or other matter before the Board and is present at a meeting of the Board at which the contract, proposed contract or other matter is the subject of consideration, he shall, before the opening of the meeting disclose the fact and shall not take part in the consideration or discussion of, or vote on any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter.

Disclosure
of interest

(2) A disclosure of interest made under subparagraph (1), shall be recorded in the minutes of the meeting at which it is made.

5-(1) The affixing of the common seal of the Authority shall be authenticated by signatures of the Chairman and the Director General and any document required by law to be made under seal.

The common
seal

(2) The decisions of the Board may be authenticated by signatures of the Chairman and the Secretary.

(3) In the absence of either the Chairman or Director General, the Board shall nominate one member to authenticate the seal of the Board on behalf of the Chairman or Director General.

Contracts
and
Instruments

6. Any contract or instrument which, if entered into or executed by a person not being body corporate, would not require to be under seal, may be entered into or executed on behalf of the Authority by any person generally or specially authorised by the Authority for that purpose.

Minutes

7. The Board shall cause minutes of all proceedings of meetings of the Board to be entered in books kept for that purpose.

Passed in the National Assembly on the 15th April, 2008.



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Acting Clerk of the National Assembly